

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 9th July, 2024**

CALLED FOR COMPLIANCE :

27 TP/640/2024) Dr. (Mr.) Dayanand B. Shetty, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) legatees named under the Will executed by Dattu
) Shripati Gujare (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 02.10.2021
) at Mumbai. Petitioner filed the copy of death certificate
) (which is annexed to petition as Exhibit- A), identity
) proof of the testator (which is annexed to petition as
) Exhibit-A1), Will, petitioner's oath, affidavits of legal
) heirs of the testator/testatrix.
)
) 2. The petitioner has explained the delay in para
) No.11 of the petition as per Rule 382 of the Bombay
) High Court (Original Side) Rule, 1980 (for short
) “Rules”).
)
) 3. The testator has not appointed executor to execute
) the Will. The petitioner is being one of the legatees
) named under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at
) Mumbai on 07.06.2017, in English language. The
) original Will is handed in separately for being filed and
) kept in a safe place in the Office of the Prothonotary
) and Senior Master, High Court, Bombay.
)
) 5. Petitioner states that parents of testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No. 9 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator died leaving behind his wife namely Pushpa
) Dattu Gujare, two sons namely Prashant Dattu Gujare –
) petitioner herein, Pramod Dattu Gujare and only
) married daughter namely Pranita Ganesh Kaulaskar.
) Consent Affidavits of Pushpa Gujare,2
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) Pramod Dattu Gujare and Pranita Kaulaskar, all dated
) 22.07.2023 are on record. They have given their
) consents in the form of Affidavits, which are filed on
) the record by the petitioner and consented for the
) issuance of Letters of Administration with Will annexed
) in favour of the petitioner without justifying any surety
) in respect of their shares in the estate of the testator.
) They have waived the service of Citation. The petitioner
) affirmed that there are no other legal heirs of the testator
) other than mentioned in para 9 of the petition.

) 6. Affidavit of Service of General Citation is filed,
) stating that citation has been affixed on the Notice
) Board of the Hon'ble High Court, Bombay and notice
) board of the Collector's office on 25.04.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit and Additional
) Affidavit of Nitin K. Vetal dated 22.07.2023 and
) 17.05.2024 respectively, one of Attesting Witness to the
) Will, in the Form No.102 of the Bombay High Court
) (Original Side) Rules, 1980. Attesting witness deposed
) that he was present and testator signed on the Testament
) papers in presence of his and another witness.
) According to him, all additions and alteration, in a Will,
) were existed at the time of execution and before signing
) the Will. Hence, there is sufficient compliance of the
) Rule 383 of the Bombay High Court (Original Side)
) Rules, 1980. Attesting Witness deposed that he had read
) over, explained and interpreted the contents of the Will
) to the Testator at the time of execution of the Will.
) Hence, there is sufficient compliance of 419 of the
) Bombay High Court (Original Side) Rules, 1980. Will
) is duly registered before Joint Sub-Registrar, Kurla-3
) (Class-2) under registration No. KRL3-4703-2017.
) Attesting witness further deposed that at the time of
) execution of the Will, testator was of sound and
) disposing mind, memory and understanding. Hence,
) enough evidence is on record to accept the execution of
) the Will and petitioner is succeeded to prove the
) execution of Will.

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8. Properties mentioned in the schedule of the petition are referred in the Will. Ld. Advocate for petitioner submits that as mentioned in para 6 of the petition, which reads as undr :

“That the petitioner has truly set forth in the Schedule-I which is annexed hereto and marked as Exhibit – ‘C’, all the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to the legatee’s hands. The property mentioned in the Will and did not mentioned in Schedule – I to the petition, are disposed by the deceased during his lifetime”.

The Ld. Advocate for the petitioner submitted that properties available to the testator at the time of his death are mentioned in the Schedule-I of the petition.

Ld. Advocate for petitioner submits that as mentioned in the Will that one of the beneficiaries namely Pranav Pramod Gujare, consent Affidavit is not necessary as petitioner stated on oath in para 6 of the petition, the properties which are not mentioned in the Schedule – I of the petition, are disposed by the testator during his life time.

9. Petitioner has executed the administration Bond dated 20.01.2024, in the prescribed format. Hence, following order:

ORDER

- 1) Petition is granted.
- 2) Office to issue Letters of Administration with Will annexed as per the provisions of the Indian Succession Act, 1925 to the petitioner and upon satisfaction that the administration Bond is properly executed, as per the Rules.
- 3) Before issuance of above said Letters of Administration with Will, the office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly

09.07.2024

FIRST ASSISTANT MASTER

